

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

C.W.P.No.18444 of 2006
Date of Decision: 21.3.2007

M/s V.S. Stone and Construction Pvt. Ltd. Petitioner through
Mr. P.R. Sikka,,Advocate

Versus

Haryana Urban Development Authority
and others Respondent through
Mr.J.P. Bhatt,Advocate.

CORAM : HON'BLE MR.JUSTICE VIJENDER JAIN,
CHIEF JUSTICE.
HON'BLE MR.JUSTICE RAJIVE BHALLA

1. Whether Reporters of Local Newspapers may be allowed to see the judgement ?
2. To be referred to the Reporters or not ?
3. Whether the judgement should be reported in the Digest ?

VIJENDER JAIN, CHIEF JUSTICE

Prayer in this writ petition, is for issuance of a writ in the nature of Certiorari, quashing Memo No.23961 dated 27.7.2006, whereby the respondents have withdrawn allotment of Industrial Plot No.261, Sector 58, Faridabad and for quashing of order dated 1.8.2006, whereby an appeal filed by the petitioner was dismissed.

The respondents invited applications for allotment of industrial plots. The petitioner, admittedly, applied for allotment of an industrial plot,

measuring 800 sq.mtrs in Sector 58, Faridabad, vide application dated 27.4.2003. The petitioner was allotted Plot No.247, Sector 58, Faridabad, on free hold basis, vide Memo dated 23.12.2003, possession, however, was not handed over to the petitioner. It was latter discovered that a high tension electric wire traversed the length of the said plot and, therefore, the petitioner was allotted Plot No.261, Sector 58, Faridabad, vide letter dated 2.6.2006. The petitioner deposited the first instalment, whereafter possession certificate dated 14.6.2006 was issued. It was specifically mentioned in the certificate that Plot No.261, Sector 58, Faridabad measuring 1979 Sq.mtrs. However, vide letter dated 27.7.2006, the aforementioned allotment was cancelled.

Aggrieved by the aforementioned cancellation, the petitioner filed an appeal, which was dismissed vide order dated 1.8.2006.

Counsel for the petitioner contends that the order cancelling the plot is violative of the principles of natural justice as no show cause notice was issued to the petitioner, prior to cancellation. It is further contended that possession of the plot was voluntarily delivered by the respondents and thereafter cancellation of the allotment, merely on the ground that possession had been given for a larger area than applied for, is illegal.

Counsel for the respondents, on the other hand, submits that the petitioner applied for allotment of an industrial plot measuring 800 Sq. mtrs. but on account of an error, possession was delivered of a plot measuring 1979 sq.mtrs. The respondents, therefore, rectified this error and withdrew the allotment of Plot No.261, Sector 58, Faridabad from the petitioner. It is further contended that as per the petitioner's own admission in para 9 of the petition, adjacent plot No.262 in Sector 58, Faridabad, measuring 800 Sq.

mtrs. had already been allotted to the petitioner vide order dated 2.8.2006. The petitioner's original claim having been satisfied, the present petition be dismissed.

We have heard learned counsel for the parties and perused the paper book.

Admittedly, the petitioner applied for allotment of an industrial plot, measuring 800 Sq.mtrs. The initial allotment of plot No.247, Sector 58, Faridabad was cancelled, as the length of the said plot was traversed by high tension electric wires. The petitioner was, thereafter, allotted Plot No.261, Sector 58, Faridabad. This plot measured 1979 sq. mtrs. i.e. more than twice the area, for which the petitioner had applied. As averred in their affidavit and as submitted by counsel for the respondents, when this error came to their notice, they withdrew the allotment and vide order dated 2.8.2006 and allotted another plot, namely; Plot No.262 in the same sector i.e. Sector 58, Faridabad, measuring 800 sq. mtrs. The latter fact, namely; allotment of Plot No.262, Sector 58, Faridabad, has not been denied by the petitioner in his rejoinder.

From the facts noticed herein before, it appears that the respondents made an error by allotting Plot No.262, Sector 58, Faridabad, to the petitioner. The petitioner was entitled to the allotment of a plot measuring 800 sq. mtrs. whereas the alternative plot allotted namely; Plot No.261, Sector 58, Faridabad, measured 1979 sq. mtrs. The respondents, merely rectified an error as the petitioner was entitled to the allotment of a plot measuring 800 sq.mtrs. No vested right was infringed by rectification of this admitted error. The petitioner has been allotted plot No.262, Sector

58, Faridabad, measuring 800 Sq.mtrs. as per his entitlement. The petitioner cannot permitted to take advantage of a bonafide error committed by the respondents. Dismissed.

(VIJENDER JAIN)
CHIEF JUSTICE

21.3.2007
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(RAJIVE BHALLA)
JUDGE